

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

ROBERT EUGENE COLEMAN,)
Petitioner,) 4:04cv3377
vs.) MEMORANDUM AND ORDER
ROBERT HOUSTON,)
Respondent.)

This matter is before the court on filing no. 22, the Motion for a Certificate of Appealability filed by the petitioner, Robert Eugene Coleman. In filing no. 18, this court denied filing no. 17, the petitioner's Motion for a Certificate of Appealability addressed to this court. At that time, the court explained to the petitioner that he could request a Certificate of Appealability directly from the United States Court of Appeals for the Eighth Circuit.

The caption in filing no. 22 indicates that the petitioner meant to file his second Motion for a Certificate of Appealability in the Eighth Circuit. Therefore, the Clerk of Court shall forward filing no. 22 to the Eighth Circuit.

As the Clerk of Court has noted in filing no. 23, the petitioner's appeal is untimely. This court declines to grant any extension of time.

In filing no. 22, the petitioner may also have intended to include a Motion for Leave to Proceed In Forma Pauperis ("IFP"). The Clerk of Court shall request the petitioner's trust account information from his institution and shall send the petitioner an IFP form, in case the Eighth Circuit remands this action for determination of the petitioner's IFP status on appeal.

SO ORDERED.

DATED this 1st day of June, 2005.

BY THE COURT:

s/ Joseph F. Bataillon
Joseph F. Bataillon
Chief District Judge